

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	04cr1110 (DLC)
	:	11cv1556 (DLC)
-v-	:	
	:	
ANGELO DIPIETRO,	:	<u>ORDER</u>
	:	
Defendant.	:	
	:	
-----X	:	

DENISE COTE, District Judge:

Angelo DiPietro is scheduled to be resentenced on May 20, 2021 on his conviction for violating 18 U.S.C. § 924(c). Resentencing is necessitated by the vacatur of a prior § 924(c) conviction in another case, but DiPietro is also challenging the validity of the instant § 924(c) conviction via a petition pursuant to 28 U.S.C. § 2255. This Court denied his § 2255 petition on March 29 and DiPietro has appealed that denial.

On April 29, the parties advised the Court that DiPietro wished to undergo resentencing solely on his § 924(c) conviction and did not want to pursue plenary resentencing. In accordance with the parties' expressed preference, the Court entered an Order that set out the terms of the resentencing proceeding and requested sentencing submissions from the parties.

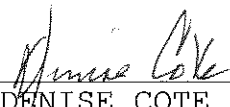
On May 6, DiPietro filed a document styled as a "sentencing submission." The May 6th filing consisted of both a request that the Court impose a sentence of 84 months on DiPietro's § 924(c)

conviction, the mandatory minimum sentence for the offense, and a petition for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A) that asked the Court to reduce the 84 month sentence to time served or to impose the 84 month sentence to run concurrently with DiPietro's other sentences. On May 13, the Government filed a reply to DiPietro's submission that concurred in the requested 84 month sentence but opposed the motion for compassionate release.

DiPietro seeks compassionate release on his § 924(c) conviction, but he is currently litigating the validity of that conviction via a § 2255 petition that is currently on appeal to the Second Circuit. Compassionate release is therefore denied at this time. Accordingly, it is hereby

ORDERED that the May 6 motion for compassionate release is denied. The denial is without prejudice to a renewed motion that may be brought after the resolution of his current § 2255 challenge to his § 924(c) conviction.

Dated: New York, New York
May 18, 2021



DENISE COTE
United States District Judge